

STATE OF INDIANA) IN THE PORTER SUPERIOR COURT
) SS:
COUNTY OF PORTER) CONTINUOUS TERM 2019

BENJAMIN SHADLEY,)
)
Plaintiff,)
)
-v-) CAUSE NO.:
)
RALPH SCALA JR. and.,)
J & R SCHUGEL TRUCKING, INC.)
Defendants.)

COMPLAINT

FACTS COMMON TO ALL COUNTS

Comes now the Plaintiff, BENJAMIN SHADLEY, by counsel, GREGORY J. SARKISIAN of SARKISIAN, SARKISIAN & ASSOCIATES, P.C., and for his cause of action against the Defendants, RALPH SCALA JR. and J & R SCHUGEL TRUCKING, INC., alleges and states as follows:

1. That the collision complained of herein occurred within the boundaries of Porter County, State of Indiana.
2. That at all times relevant herein, BENJAMIN SHADLEY was an individual who is a legal resident of the State of Indiana.
3. That at all times relevant herein, RALPH SCALA JR. was an individual who upon information and belief, is a legal resident of New York, who was also an agent and/or employee of Defendant, J & R SCHUGEL TRUCKING, INC..
4. That at all times relevant herein, J & R SCHUGEL TRUCKING, INC. was a for-profit business, licensed and/or authorized to transact business within the State of Indiana.

5. That on May 30, 2019, at approximately 4:40 p.m., the Plaintiff, BENJAMIN SHADLEY, was operating a 2018 Dodge Journey southbound on County Road 250 West in city of Valparaiso, County of Porter, State of Indiana.
6. That on said date and time, the Defendant, RALPH SCALA JR., operated J & R SCHUGEL TRUCKING, INC.'S 2016 Kenworth Semi-Tractor Trailer, under the dispatch and control of J & R SCHUGEL TRUCKING, INC.
7. That on said date and time, RALPH SCALA JR., operated the semi-tractor trailer westbound on U.S Highway 30 approaching the intersection of County Road 250 West, in the city of Valparaiso, County of Porter, State of Indiana.
8. That on said date and time, RALPH SCALA JR., failed to yield the right of way and/or stop his semi-tractor trailer, causing it to cross into the path of the vehicle being operated by the Plaintiff.
9. That at all times relevant herein, RALPH SCALA JR., owned, managed and/or leased the semi-tractor he was operating.
10. That at all times relevant herein, J & R SCHUGEL TRUCKING, INC. owned, managed and/or leased the tractor-trailer operated by RALPH SCALA JR.
11. That at all times relevant herein, the semi-tractor displayed a DOT No. 0000116455
12. That at all times relevant herein, the semi-tractor displayed J & R SCHUGEL TRUCKING, INC.'s logo.
13. That at all times relevant herein, J & R SCHUGEL TRUCKING, INC. was an interstate motor carrier subject to the Federal Motor Carrier Safety Regulations, operating through and within the State of Indiana.

14. That at all times relevant herein, there was in full force and effect in the State of Indiana I.C. § 8-2.1-24-18, a statute incorporating by reference, *inter alia*, Parts 390, 391, 392, 393, 395, and 396 of the Federal Motor Carrier Safety Regulations (hereinafter “FMCSRs”)
15. That at all times relevant herein, RALPH SCALA JR. was a professional truck driver employed by J & R SCHUGEL TRUCKING, INC.
16. That at all times relevant herein, RALPH SCALA JR. and/or J & R SCHUGEL TRUCKING, INC. were subject to and required to comply with the FMCSRs.
17. On and before May 30, 2019, J & R SCHUGEL TRUCKING, INC. was subject to the Federal Motor Carrier Safety Regulations and owed BENJAMIN SHADLEY and others lawfully traveling on the roadway, a duty to use reasonable care.
18. On and before May 30, 2019, RALPH SCALA JR. was subject to the Federal Motor Carrier Safety Regulations and owed BENJAMIN SHADLEY and others lawfully traveling on the roadway, a duty to use reasonable care.
19. On and before May 30, 2019, J & R SCHUGEL TRUCKING, INC. and RALPH SCALA JR., breached the foregoing duties and were negligent, willful, wanton, and/or reckless.
20. On May 30, 2019, as a direct and proximate result of the aforesaid negligence, willfulness, wantonness, and/or recklessness, J & R SCHUGEL TRUCKING, INC., and RALPH SCALA JR., caused their semi-tractor trailer to crash into the vehicle of BENJAMIN SHADLEY’S car with great force and violence.
21. On May 30, 2019, the Defendant, RALPH SCALA JR., was negligent *per se* in the operation of the semi-tractor trailer in a manner that violated federal, state, or local laws; statutes; codes; regulations; or ordinances pertaining to the safe operation of motor

vehicles and/or commercial-motor vehicles upon the roadway.

22. As a direct and proximate result of the foregoing crash and the conduct of J & R SCHUGEL TRUCKING, INC. and RALPH SCALA JR., BENJAMIN SHADLEY was physically injured, suffered emotional distress; sustained other permanent and severe personal injuries; she incurred and will incur ambulance, hospital, diagnostic, surgical, therapeutic, pharmaceutical, and other medical expenses; she suffered and will suffer physical pain, mental suffering, terror, fright, loss of enjoyment of life, and permanent impairment; he lost time or wages and impairment of her earnings capacity; and she incurred other injuries and damages of a personal and pecuniary nature.
23. At all times relevant herein, J & R SCHUGEL TRUCKING, INC., exerted authority over RALPH SCALA JR.'s operation of its semi-tractor, the means and methods employed by RALPH SCALA JR. in his work, and provided him with the equipment, including but not limited to, the tractor-trailer, motor carrier license, and load necessary to accomplish his assigned tasks. As RALPH SCALA JR.'s employer(s), agent(s), and/or principal(s), J & R SCHUGEL TRUCKING, INC. is vicariously liable for his negligence and conduct.

WHEREFORE, BENJAMIN SHADLEY seeks the entry of judgement in his favor and against J & R SCHUGEL TRUCKING, INC. and RALPH SCALA JR., and each of them for compensatory and punitive damages, in an amount to be determined herein, pre-judgment interest and post-judgment interest, for the costs of this action, and for any and all other relief that the Court and Jury may deem proper under the circumstances.

SARKISIAN, SARKISIAN & ASSOCIATES PC
Attorneys for Plaintiff

/s/: Gregory J. Sarkisian

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COUNT I – NEGLIGENCE

Comes now the Plaintiff, BENJAMIN SHADLEY, by counsel, GREGORY J. SARKISIAN of SARKISIAN, SARKISIAN & ASSOCIATES, P.C., and for his cause of action against the Defendant, RALPH SCALA JR., alleges and states as follows:

24. That the Plaintiff, BENJAMIN SHADLEY, re-alleges the allegations contained in Paragraphs 1 through 23 above, and incorporates them as part hereof.
25. That the Defendant RALPH SCALA JR. was careless and negligent in the operation of the tractor-trailed, including but not limited to one or more of the following ways:
 - a. Failing to maintain a reasonable control of the semi-tractor;
 - b. Failing to operate the tractor-trailer in a safe and reasonable manner;
 - c. Failing to take evasive maneuvers in order to avoid collision;
 - d. Failing to yield to other drivers on the roadway;
 - e. Operated the semi-tractor aggressively and without regard for the health and safety of others upon the roadway;
 - f. Failing to keep a proper look out for warnings, other vehicles, distance, roadway space, and obstructions;
 - g. Failing to ensure that he had adequate line-of-sight of other vehicles and obstructions in his path;
 - h. Failing to maintain operation of the semi-tractor of the weight of the truck and the vehicle's acceleration and deceleration mobility, maneuvering

- distance, and line-of-sight;
- i. Operating the truck without adequate training and experience;
 - j. Violation of applicable state and federal statutes; and/or
 - k. Violation of applicable city and local ordinances
26. On May 30, 2019, the Defendant, RALPH SCALA JR., was negligent per se in the operation of the semi-tractor in a manner that violated federal, state, or local laws; statutes; codes; regulations; or ordinances pertaining to the safe operation of motor vehicles and/or commercial-motor vehicles upon the roadway.
27. As a direct and proximate result of the foregoing crash and the conduct of RALPH SCALA JR., BENJAMIN SHADLEY was physically injured, suffered emotional distress; sustained other permanent and severe personal injuries; he incurred and will incur ambulance, hospital, diagnostic, surgical, therapeutic, pharmaceutical, and other medical expenses; he suffered and will suffer physical pain, mental suffering, terror, fright, loss of enjoyment of life, and permanent impairment; she lost time or wages and impairment of his earnings capacity; and he incurred other injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, BENJAMIN SHADLEY, prays for judgment against the Defendant, RALPH SCALA JR., in a just and proper sum, for the costs of this action, for pre-judgment interest, post-judgment interest and for all other just and proper relief.

SARKISIAN, SARKISIAN & ASSOCIATES PC
Attorneys for Plaintiff

/s/: Gregory J. Sarkisian
GREGORY J. SARKISIAN (43-64)

COUNT II – RESPONDEAT SUPERIOR

Comes now the Plaintiff, BENJAMIN SHADLEY, by counsel, GREGORY J. SARKISIAN of SARKISIAN, SARKISIAN & ASSOCIATES, P.C., and for his cause of action against the Defendant, J & R SCHUGEL TRUCKING, INC. alleges, and states as follows:

28. That the Plaintiff, BENJAMIN SHADLEY, re-alleges the allegations contained in Paragraphs 1 through 27 above, and incorporates them as part hereof.
29. That at all times relevant herein, the Defendant, RALPH SCALA JR., who negligently, recklessly and/or carelessly operated the semi tractor-trailer, was an employee and/or agent of J & R SCHUGEL TRUCKING, INC.
30. That at all times relevant the Defendant, RALPH SCALA JR., was acting within the course and scope of his employment and/or agency with J & R SCHUGEL TRUCKING, INC.
31. That at all times relevant herein, the Defendant, J & R SCHUGEL TRUCKING, INC. was the registered owner/operator, lessors, lessees or otherwise of the semi-tractor trailer being operated by the Defendant RALPH SCALA JR., who was its employee and/or agent under its direct control and supervision.
32. As a direct and proximate result of the foregoing crash and the conduct of J & R SCHUGEL TRUCKING, INC., BENJAMIN SHADLEY was physically injured, suffered emotional distress; sustained other permanent and severe personal injuries; he incurred and will incur ambulance, hospital, diagnostic, surgical, therapeutic, pharmaceutical, and other medical expenses; he suffered and will suffer physical pain, mental suffering, terror, fright, loss of enjoyment of life, and permanent impairment; he lost time or wages and impairment of his earnings capacity; and he incurred other injuries and damages of a

personal and pecuniary nature.

33. That J & R SCHUGEL TRUCKING, INC. is vicariously liable for the negligence, recklessness, and/or carelessness of its employee and/or agent, RALPH SCALA JR.

WHEREFORE, the Plaintiff, BENJAMIN SHADLEY, prays for judgment against the Defendant, J & R SCHUGEL TRUCKING, INC. in a just and proper sum, for the costs of this action, for pre-judgment interest, post-judgment interest and for all other just and proper relief.

SARKISIAN, SARKISIAN & ASSOCIATES PC
Attorneys for Plaintiff

/s/: Gregory J. Sarkisian
GREGORY J. SARKISIAN (43-64)

COUNT III - NEGLIGENT HIRING, TRAINING, SUPERVISION AND RETENTION

Comes now the Plaintiff, BENJAMIN SHADLEY, by counsel, GREGORY J. SARKISIAN of SARKISIAN, SARKISIAN & ASSOCIATES, P.C., and for his cause of action against the Defendant, J & R SCHUGEL TRUCKING, INC. alleges and states as follows:

34. That the Plaintiff, BENJAMIN SHADLEY, re-alleges the allegations contained in Paragraphs 1 through 33 above, and incorporates them as part hereof.
35. That J & R SCHUGEL TRUCKING, INC. owed the general public, including the Plaintiff, a duty to determine the qualifications of its employees and agents including, but not limited to:
 - a. Adequately evaluating applicants before hiring them as truck drivers;
 - b. Adequately training and supervising these drivers; and
 - c. Adequately evaluating these employee's job performance to discharge any incompetent or negligent employee before he injured the public or

property.

36. That J & R SCHUGEL TRUCKING, INC. breached these duties to the general public, including the Plaintiff, by its negligent and careless hiring, training, supervising, and retaining of RALPH SCALA JR. who was unqualified, incompetent, and/or negligent and careless.
37. As a direct and proximate result of the foregoing crash and the conduct of J & R SCHUGEL TRUCKING, INC. BENJAMIN SHADLEY was physically injured, suffered emotional distress; sustained other permanent and severe personal injuries; she incurred and will incur ambulance, hospital, diagnostic, surgical, therapeutic, pharmaceutical, and other medical expenses; he suffered and will suffer physical pain, mental suffering, terror, fright, loss of enjoyment of life, and permanent impairment; she lost time or wages and impairment of his earnings capacity; and he incurred other injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, BENJAMIN SHADLEY, prays for judgment against the Defendant, J & R SCHUGEL TRUCKING, INC., in a just and proper sum, for the costs of this action, for pre-judgment interest, post-judgment interest and for all other just and proper relief.

SARKISIAN, SARKISIAN & ASSOCIATES PC
Attorneys for Plaintiff

/s: Gregory J. Sarkisian
GREGORY J. SARKISIAN (43-64)

COUNT IV – NEGLIGENT ENTRUSTMENT

Comes now the Plaintiff, BENJAMIN SHADLEY, by counsel, GREGORY J. SARKISIAN of SARKISIAN, SARKISIAN & ASSOCIATES, P.C., and for his cause of action against the Defendant, J & R SCHUGEL TRUCKING, INC. alleges and states as follows:

38. That the Plaintiff, BENJAMIN SHADLEY, re-alleges the allegations contained in Paragraphs 1 through 37 above, and incorporates them as part hereof.
39. That the Defendant, J & R SCHUGEL TRUCKING, INC. entrusted the semi-tractor to the Defendant, RALPH SCALA JR.
40. That the Defendant, J & R SCHUGEL TRUCKING, INC. was careless and negligent in one or more of the following ways:
 - a. Entrusting their vehicle to a person whom they knew or should have known to be incompetent, unsafe, and generally a danger to others in the operation of a motor vehicle upon the roadways;
 - b. Entrusting their vehicle to a person whom they knew or should have known to be unfamiliar with the operation of said vehicle.
41. As a direct and proximate result of the foregoing crash and the conduct of J & R SCHUGEL TRUCKING, INC. BENJAMIN SHADLEY was physically injured, suffered emotional distress; sustained other permanent and severe personal injuries; she incurred and will incur ambulance, hospital, diagnostic, surgical, therapeutic, pharmaceutical, and other medical expenses; he suffered and will suffer physical pain, mental suffering, terror, fright, loss of enjoyment of life, and permanent impairment; she lost time or wages and impairment of his earnings capacity; and he incurred other injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, BENJAMIN SHADLEY, prays for judgment against the Defendant, J & R SCHUGEL TRUCKING, INC. in a just and proper sum, for the costs of this action, for pre-judgment interest, post-judgment interest and for all other just and proper relief.

SARKISIAN, SARKISIAN & ASSOCIATES PC

Attorneys for Plaintiff

/s/: Gregory J. Sarkisian

GREGORY J. SARKISIAN (43-64)

MOTION FOR TRIAL BY JURY

Plaintiff by counsel, requests a trial by jury on all counts triable by a jury.

Respectfully submitted,

SARKISIAN, SARKISIAN & ASSOCIATES PC
Attorneys for Plaintiff

/s/: Gregory J. Sarkisian

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